

Interlocutory Orders, Etc.

IN THE MATTER OF

RAMBUS INCORPORATED

Docket No. 9302 Order, August 12, 2008

Letter approving Rambus' Application for Approval of Compliance Officer filed on June 16, 2008, pursuant to Paragraph III.A.1 of the Commission's Final Order issued February 2, 2007.

**LETTER RESPONDING TO RAMBUS INC.'S APPLICATION FOR
APPROVAL OF COMPLIANCE OFFICER**

Dear Mr. Stone and Mr. Melamed:

This letter responds to the *Application for Approval of Compliance Officer* filed by respondent Rambus Inc. ("Rambus") on June 16, 2008. In that application, Rambus has sought, pursuant to Paragraph III.A.1 of the Commission's Final Order in the above matter ("*Order*"), Commission approval of the employment by Rambus of Laura Stark in the position of Compliance Officer.

After considering Rambus's application, the Commission has determined to approve Rambus's employment of Laura Stark as Compliance Officer. In according its approval, the Commission has relied upon the information submitted and representations made in connection with the filings and has assumed them to be accurate and complete.

This approval does not relieve Rambus from liability for any violations of the Order, including any violations for which the Compliance Officer is responsible. See *Order* at ¶ III.C. (as modified by *Order Granting in Part and Denying in Part Respondent's Petition for Reconsideration of the Final Order and Granting Complaint Counsel's Petition for Reconsideration of Paragraph III.C. of the Final Order* at ¶ 2 (April 27, 2007)).

By direction of the Commission.

Interlocutory Orders, Etc.

IN THE MATTER OF

**WHOLE FOODS MARKET, INC.,
and
WILD OATS MARKETS, INC.***Docket No. 9324 Order, September 5, 2008*

Order denying the Motion to Disqualify the Commission as Administrative Law Judge and to Appoint a Presiding Official Other Than a Commissioner made by Whole Foods Market, Inc., pursuant to Rule 3.42(g)(2).

**ORDER DENYING RESPONDENT’S MOTION TO DISQUALIFY THE
COMMISSION**

Respondent Whole Foods Market, Inc., moves the Commission to recuse “itself as administrative law judge (“ALJ”) and to appoint as presiding official a duly qualified ALJ who is not a Commissioner.” See Respondent’s Motion to Disqualify the Commission at p. 1 (April 22, 2008) *available at* <http://www.ftc.gov/os/adjpro/d9324/080822respmodisqualifycomm.pdf>. The Commission denies the motion.

In administrative litigation, a party may seek disqualification by a good faith filing “of a timely and sufficient affidavit of personal bias or other disqualification of a presiding or participating employee.” 5 U.S.C. §556(b). Whole Foods argues that statements the Commission made in seeking a preliminary injunction and in pursuing its appeal of the denial of a preliminary injunction create bias and prejudgment requiring the Commission to disqualify itself or any individual Commissioner from acting as the presiding officer.

Whole Foods does not challenge the Commission’s authority to review the initial decision – a role in which the Commission has all the powers of the presiding officer. Whole Foods, however, argues that where the Commission seeks a preliminary